

Health & Welfare Benefit Plan: 5500 Filings

Most employers are familiar with the 5500 filing requirements for their retirement plan(s). However, Warren Averett's Benefit Consultants team has seen an increase in the number of plan sponsors that were unaware of the requirement to file a Form 5500 for their health and welfare plan(s). Such plans potentially include health, vision, dental, life insurance, short-term and long-term disability, as well as Flexible Spending Account (FSA) plans. As with retirement plans, the 5500 must be filed no later than seven months following the end of the plan year.

What plans must file?

- Health insurance and self-funded health benefits
- Dental insurance and self-funded dental benefits
- Vision insurance and self-funded vision benefits
- Health flexible spending accounts
- Health Reimbursement Arrangements (HRAs)
- Long-term disability coverage
- Accident, death and dismemberment insurance
- Life insurance
- Severance benefits
- Wellness programs providing significant medical benefits
- Many Employee Assistance Programs (EAPs)

You should receive information from your insurance carrier or provider with the necessary information to complete Schedule A of the Form 5500. Unfortunately, while some providers send the information automatically, others wait for the request. Ultimately, it is the plan sponsor's responsibility to ensure the information is received and a single Form 5500 is filed.

One plan or multiple plans?

A Form 5500 should be filed for each plan. Discretion is left to the employer to designate what constitutes a plan, as multiple benefits may be bundled into one plan as long as plan documents reflect this intent. Your Section 125 or Flexible Benefit Cafeteria Plan may include language that wraps the included benefits into one plan. If that is not the case, a wrap plan document can, and often is, a standalone document incorporating all applicable benefits into a single plan document. This is often done for the sole benefit of filing the Form 5500.

Exceptions to the filing requirement?

A plan covering 100 or fewer participants that is unfunded, fully insured or a combination of unfunded/insured is completely exempt from the filing requirements. It is important to understand how participants are defined. Participants should only include employees or former employees. Dependents are not counted for purposes of determining if a plan is required to file. Self-funded plans not paid exclusively from the assets of the employer do not get the benefit of the 100-participant exception.

Additional plans that may be excluded are:

- A welfare benefit plan maintained outside the United States primarily for persons substantially all of whom are nonresident aliens
- A governmental plan
- An unfunded or insured welfare benefit plan maintained for a select group of management or highly compensated employees, which meets the requirements of 29 CFR 2520.104-24
- An employee benefit plan maintained only to comply with workers' compensation, unemployment compensation or disability insurance laws
- A welfare benefit plan that participates in a group insurance arrangement that files a Form 5500 on behalf of the welfare benefit plan as specified in 29 CFR 2520.103-2 (See 29 CFR 2520.104-43)
- An apprenticeship or training plan meeting all of the conditions specified in 29 CFR 2520.104-22
- An unfunded dues-financed welfare benefit plan exempted by 29 CFR 2520.104-26
- A church plan under ERISA section 3(33)
- A welfare benefit plan maintained solely for (1) an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated, or (2) partners or the partners and the partners' spouses in a partnership (See 29 CFR 2510.3-3(b))

Don't panic.

If you discover that you have not filed Form 5500 for your health and welfare plan(s), Warren Averett Benefit Consultants can help you take advantage of the Delinquent Filer Voluntary Compliance Program (DFVCP). The program limits the penalty to \$2,000 per plan year and caps the penalty at \$4,000 per plan. While these amounts are not insignificant, employers could be fined up to \$1,100 per day for failure to file the Form 5500. It should be noted that a plan sponsor will not be eligible to participate in the DFVCP if the DOL has notified the plan sponsor of a failure to file a timely annual report.

Warren Averett Benefit Consultants has helped numerous clients prepare the Form 5500 for filing through the DFVCP. Many of the clients we have helped have been under 100 participants for many years and were unaware of the requirement. Whether you know that you missed a deadline or are unsure if you are required to file, we are here to assist in navigating the compliance filing requirements for your plan.